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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/081,292 | 02/26/2002 | Koichi Shirai | DAIN:669 | 9815 |

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EXAMINER

THOMPSON, JAMES A

| ART UNIT | PAPER NUMBER |
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2625

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,292

Applicant(s)

SHIRAI ET AL.

Examiner

James A. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 02 August 2006 have been fully considered but they are not persuasive.

Regarding page 4, line 2 to page 7, line 21: Applicant's present amendments to the claims have been fully considered by Examiner and are fully addressed in the prior art rejections set forth below. The new grounds of rejection have been necessitated by the present amendments to the claims. While it is true that Johnson (US Patent 5,053,866) does not teach each and every limitation of the presently amended independent claims, the presently amended claims would have been obvious to one of ordinary skill in the art at the time of the invention.

Furthermore, in the rejection of claim 7 in the previous office action, dated 02 December 2005 and mailed on both 12 December 2005 and 17 May 2006, official notice was taken that sublimation dye transfer printers are old, well-known and expected in the art. Since this has not been timely disputed by Applicant, it is now considered accepted by Applicant that sublimation dye transfer printers are old, well-known and expected in the art (see MPEP §2144.03).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (US Patent 5,053,866).

Regarding claim 1: Johnson discloses:

- printing a test image by an output unit on the basis of test image data (column 4, lines 28-34 of Johnson) carrying reference color development characteristic information (column 5, lines 61-65 of Johnson).
- reading the printed test image data by an input unit (figure 1(20) of Johnson) to obtain image data (column 6, lines 3-8 of Johnson).
- calculating output-correcting values by the controller on the basis of the differences (column 6, lines 30-40 of Johnson) between the color development characteristic information included in the test image data read by the input unit and sent through a line from the input unit to the controller (figure 1 and column 4, lines 8-26 of Johnson), and the reference color development characteristic information (column 6, lines 9-16 of Johnson) sent through the same line as that of the test image data from the input unit to the controller (figure 1(R,G,B) and column 4, lines 8-26 of Johnson - line for R,G,B colors all same for RGB data from Data source (12) to image recorder (28)).
- inputting image data into an input unit (figure 1(12) and column 4, lines 6-9 of Johnson).
- correcting the image data input into the input unit by using output-correcting values by a controller (figure 1 (22) and column 4, lines 10-11 and lines 16-19 of Johnson) to obtain color-corrected image data (column 4, lines 11-19 of Johnson).

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- printing an image represented by the color-corrected image data corrected by the controller by an output (figure 1(28) and column 4, lines 28-34 of Johnson).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US Patent 5,053,866) in view of *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Regarding claim 3: Johnson discloses a color correcting system (figure 1 of Johnson) comprising:

- an input unit (figure 1 (12) of Johnson) that receives image data (column 4, lines 6-9 of Johnson).
- a controller (figure 1(22) and column 4, lines 10-11 and lines 16-19 of Johnson) storing output-correcting values for correcting the image data received by the input unit by using the output-correcting values (column 4, lines 11-19 of Johnson).
- an output unit (figure 1(28) of Johnson) that prints an image on the basis of the corrected image data obtained by correcting the image data by the controller (column 4, lines 28-34 of Johnson).

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- the controller has test image data (column 4, lines 28-34 of Johnson) including reference color development characteristic information (column 5, lines 61-65 of Johnson), a second input unit (figure 1(20) of Johnson) reads the test image printed on the basis of the test image data by the output unit (column 6, lines 3-8 of Johnson).
- the controller calculates output-correcting values on the basis of the difference (column 6, lines 30-40 of Johnson) between the color development characteristic information included in the test image data read by the second input unit and sent through a line from the second input unit to the controller (figure 1 and column 4, lines 8-26 of Johnson) and the reference color development characteristic information (column 6, lines 9-16 of Johnson) sent through the same line as that of the test image data from the input unit to the controller (figure 1(R,G,B) and column 4, lines 8-26 of Johnson - line for R,G,B colors all same for RGB data from Data source (12) to image recorder (28)).

Johnson teaches that the input unit (figure 1(12) of Johnson, recited in claim 1) is a general-purpose digital image data source, which may be a system (generally known as a scanner) for converting a hardcopy color image to digital color image data signals (column 4, lines 4-9 of Johnson). Johnson does not disclose expressly that said input unit and said second input unit are the same input unit. However, *In re Larson* has held that making parts integral is an obvious engineering design choice if there is no novel and unexpected result. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have said input unit, which in one embodiment taught by Johnson is a scanner, and said second input

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unit be the same input unit. In other words, the data source (figure 1(12) of Johnson) is a scanner and the scanner (figure 1 (20) of Johnson) is the same scanner. The suggestion for doing so would have been that, if a scanner is used as the data source, which is an embodiment taught by Johnson (column 4, lines 4-9 of Johnson), then there is no need to provide a second scanner. The single scanner can be used as both the data source and to read the printed test image.

Regarding claim 5: Johnson discloses that the controller changes the output-correcting values in accordance with the printing conditions (column 7, lines 29-34 of Johnson).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US Patent 5,053,866) in view of Stokes (US Patent 5,881,209).

Regarding claim 6: Johnson discloses that said controller determines output-correcting values in accordance with printing conditions (column 7, lines 29-34 of Johnson).

Johnson does not disclose expressly that the controller stores a plurality of sets of output-correcting values and selects an appropriate set of output-correcting values in accordance with printing conditions.

Stokes discloses storing a plurality of sets of output-correcting values (column 4, lines 51-58 of Stokes) and selecting an appropriate set of output-correcting values (column 5, lines 1-9 of Stokes) in accordance with printing conditions (column 6, lines 26-34 of Stokes).

Johnson and Stokes are combinable because they are from the same field of endeavor, namely color correction in digital image data printing systems. At the time of the invention, it would

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have been obvious to a person of ordinary skill in the art to store and select between a plurality of different output-correcting values, as taught by Stokes. The suggestion for doing so would have been that there are many available source and destination devices that may require calibration so that the colors presented for one device or hardcopy are the same as the colors output on another device or hardcopy (column 4, lines 34-39 of Stokes). Therefore, it would have been obvious to combine Stokes with Johnson to obtain the invention as specified in claim 6.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US Patent 5,053,866) in view of well-known prior art.

Regarding claim 7: Johnson discloses that said output unit is a printer (column 4, lines 28-34 of Johnson).

Johnson does not disclose expressly that said printer is specifically a sublimation dye transfer printer.

It considered accepted by Applicant that sublimation dye transfer printers are old, well-known and expected in the art. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically use a sublimation dye transfer printer as the output printer taught by Johnson. The suggestion for doing so would have been any kind of digital halftone printer can be used in the color correction system taught by Johnson (column 4, lines 29-40 of Johnson).

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Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James A. Thompson
Examiner
Technology Division 2625



10 October 2006



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